

REMARKS

Applicants would like to thank the Examiner for the extensive interview with the undersigned on December 15, 2004, and for the helpful suggestions that were made. In the interview, it was agreed that the amendments to claims 1, 3-10, and 27 as discussed with the Examiner appeared to overcome the art of record. Additional amendments to the claims have been made since the interview to more clearly define the Applicants' claimed invention.

Status of the Claims

Claims 1, 3-10, 12-16, and 27 are currently pending in this application. Claims 2 and 11 were canceled in the Amendment submitted on July 1, 2004, without prejudice and without any intention of abandoning the subject matter of these claims. Claims 17-26 were withdrawn from consideration in the Amendment submitted on July 1, 2004, as being drawn to an unelected invention. Claims 1, 3-7, 10, 12-16 and 27 have been amended. Support for these amendments can be found throughout the application as originally filed, for example, at least at page 6, lines 1-3 and 6-10; page 8, lines 2, 5-8, 12-14; page 8, line 25 through page 9, line 2; and in figures 1, 2, 3C and 4. Applicants submit that these amendments add no new matter.

In light of the amendments and remarks presented herein, reconsideration and allowance of claims 1, 3-10, 12-16, and 27 are respectfully requested.

Rejection under 35 U.S.C. § 102(b)

Claims 1-16 and 27 presently stand rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Astle *et al.* (U.S. Pat. 3,713,985, hereinafter "Astle"), Vince (U.S. Pat. 4,877,659, hereinafter "Vince"), Root *et al.* (U.S. Pat. 4,895,706, hereinafter "Root"), Lyman *et al.* (U.S. Pat. 5,084,246, hereinafter, "Lyman"), Gaillard (U.S. Pat. 5,948,363, hereinafter "Gaillard"), Brown (U.S. Des. Pat. 416,330, hereinafter "Brown"), and Dumitrescu *et al.* (U.S. Des. Pat. 413,677, hereinafter "Dumitrescu"). Applicants traverse these rejections to the extent they are maintained over the claims as amended.

Claims 2 and 11

Claims 2 and 11 were cancelled in the Amendment submitted on July 1, 2004. Therefore, Applicants submit that the rejection of claims 2 and 11 in this Office Action are moot.

Claims 1 and 3-10

Amended independent claim 1 requires a sample holder system having a first well strip comprising a plurality of wells, and a first engagement piece and a second engagement piece wherein the first and second engagement pieces are disposed on the same side wall of the first well strip. The first engagement piece disposed on the first well strip and the second engagement piece disposed on a second well strip connect together. The second engagement piece of the second well strip is identical to the second engagement piece of the first well strip. Applicants respectfully submit that neither Astle, Vince, Root, Lyman, Gaillard, Brown, nor Dumitrescu teaches each and every element of amended claim 1. In particular, none of the references of record teach a first and a second engagement piece on the same side wall of the well strip, wherein the first engagement piece of the first well strip and the second engagement piece of the second well strip connect and wherein the second engagement piece of the second well strip is identical to the second engagement piece of the first well strip. In reference to the interview summary of December 15, 2004, Applicants respectfully submit that claim 1 and claims 3-10 dependent therefrom, as amended, have overcome Astle, Vince, Root, Lyman, Gaillard, Brown, and Dumitrescu.

Claims 12 and 13-16

Astle

Amended independent claim 12 recites an interlockable well strip comprising a first engagement piece on a first wall and a first engagement piece on a second wall. The first engagement pieces on the first and second wall are identical. Applicants submit that Astle's device does not meet all of the limitations of claim 12 or claims 13-16 depending therefrom, and therefore is an improper reference under §102. In reference to the

interview summary of December 15, 2004, Applicants respectfully submit that claims 12-16 as amended have overcome Astle.

Gaillard

Gaillard also fails to meet the limitations of amended independent claim 12. Claim 12 recites an interlockable well strip comprising a first engagement piece on a first wall that is identical to the first engagement piece on a second wall. Gaillard's flanges, as demonstrated in figure 2, reference characters 42 and 44, are clearly not identical. One flange 44 has a square shaped perforation which engages a square shaped pin on the frame, whereas the other flange 42 has no perforation. Thus, Applicants respectfully submit that Gaillard does not teach an interlockable well strip comprising a first engagement piece on a first wall that is identical to the first engagement piece on a second wall. Consequently, Applicants submit that Gaillard does not meet all of the limitations of claim 12 or claims 13-16 depending therefrom. As such, Applicants submit that Gaillard is an improper reference under §102.

Vince

As previously recited, amended independent claim 12 recites an interlockable well strip comprising a first engagement piece on a first wall and a second engagement piece on a second wall. The first engagement pieces are identical. In contrast, Vince's culture strip has linking members all of which are different, i.e., not identical, (Col. 2, lines 56-62; col. 4, lines 51-59; Figures 1, 2-5) on the ends of the strips. Vince's "male linking member is specifically not engageable within female receiving member 24a, by virtue of its non-complementary geometry (e.g., it is too tall to fit within the opening of receiving member 24a). Similarly, male linking member 22 is specifically not engageable within female receiving member 34 (e.g., it is too wide to fit within the opening of receiving member 34). This link-specific aspect prevents misalignment of the respective strips 10, 10a, 10b, 10c." (Col. 4, lines 51-59). Moreover, it is clear from Figures 1-5 that each of Vince's linking member is different from any other of the linking members. Accordingly, all of Vince's linking members are different and could not meet Applicant's claimed invention requiring that the first engagement piece on a first wall be identical to the first engagement

piece on a second wall. Therefore, Applicants respectfully submit that Vince does not meet all of the limitations of claim 12 or claims 13-16 depending therefrom, and therefore is an improper reference under §102.

Root

Amended independent claim 12 recites an interlockable well strip comprising a first engagement piece on a first wall that is identical to the first engagement piece on a second wall. Root teaches only a strip with a rounded tab at one end and a squared tab at the other end which are provided, *inter alia*, “to identify each end of the strip.” (Col. 4, lines 27-30) Thus, the tabs are not identical. Therefore, Applicants respectfully submit that Root does not teach an interlockable well strip comprising a first engagement piece on a first wall that is identical to the first engagement piece on a second wall. Therefore, Applicants respectfully submit that Root does not meet all of the limitations of amended claim 12 or claims 13-16 depending therefrom. As such, Applicants submit that Root is an improper reference under §102.

Lyman

Lyman also fails to meet the limitations of amended independent claim 12. While amended claim 12 recites an interlockable well strip comprising a first engagement piece on a first wall that is identical to the first engagement piece on a second wall, Lyman teaches a well strip with a “rectangular flange at one end...and a rounded flange on the opposing end” such that orientation of the well strip cannot be reversed. (Col. 2 line 64 - Col. 3, line 4). Thus, Lyman’s flanges are not identical. Therefore, Applicants respectfully submit that Lyman does not teach an interlockable well strip comprising a first engagement piece on a first wall that is identical to the first engagement piece on a second wall and therefore, does not meet all of the limitations of claim 12 or claims 13-16 depending therefrom. As such, Applicants respectfully submit that Lyman is an improper reference under §102.

Brown

Likewise, Applicants submit that Brown does not teach the elements of amended independent claim 12. Claim 12 recites an interlockable well strip comprising a first

engagement piece on a first wall that is identical to a first engagement piece on a second wall. However, Brown does not teach an interlockable well strip with identical engagement pieces. Rather, Brown teaches a multi-well fluid container with a rectangular base that matches a rectangular depression in a base tray. Furthermore, while the lid portion shown in Figure 11 has a two-flanged assembly on one end (Figure 12) and a one-flange assembly on the opposite end (Figure 13), these flanges are not identical. Therefore, Applicants submit that Brown does not teach an interlockable well strip comprising a first engagement piece on a first wall that is identical to a first engagement piece on a second wall. As such, Applicants respectfully submit that Brown is an improper reference under §102.

Dumitrescu

Furthermore, Applicants submit that Dumitrescu also does not teach the elements of amended independent claim 12. Claim 12 recites an interlockable well strip comprising a first engagement piece on a first wall capable of interlocking a well strip. Dumitrescu does not teach a first engagement piece capable of interlocking a well strip. In fact, Dumitrescu does not indicate at all that Dumitrescu's sample tube rack is capable of any kind of connection with another sample tube rack. As such, Applicants respectfully submit that Dumitrescu is an improper reference under §102.

Claim 27

Amended independent claim 27 recites a sample holder system comprising a first well strip and second well strip. Each well strip has a first flange on a first end of a first side wall and on a second end of a second side wall. Each well strip has a first slot on a second end of a first side wall and on a first end of a second side wall. The first slot and first flange of the second side wall of the first well strip interlock with the first flange and the first slot of the first side wall of the second well strip. The first flange of the first side wall is identical to the first flange of the second side wall and the first slot of the first side wall is identical to the first slot of the second side wall. Applicants respectfully submit that neither Astle, Vince, Root, Lyman, Gaillard, Brown nor Dumitrescu teaches a first slot and a first flange of a second side wall of a first well strip that interlocks with a first

flange and a first slot of a first side wall of a second well strip, wherein the first flange of the first side wall is identical to the first flange of the second sidewall and where the first slot of the first sidewall is identical to the first slot of the second side wall. As such, Applicants submit that Astle, Vince, Root, Lyman, Gaillard, Brown and Dumitrescu do not meet the requirements of claim 27, and therefore, are improper references under §102. In reference to the interview summary of December 15, 2004, Applicants respectfully submit that claim 27 as amended has overcome Astle, Vince, Root, Lyman, Gaillard, Brown, and Dumitrescu.

Applicants submit that claims 3 through 10, which depend from claim 1, and claims 13 through 16, which depend from claim 12, are patentable for all of the reasons that claims 1 and 12, respectively, are patentable.

In consideration of all of the foregoing reasons, Applicants respectfully request that the rejections of claims 1, 3-10, 12-16, and 27 under 35 U.S.C. § 102(b) in view of Astle, Vince, Root, Lyman, Gaillard, Brown, and Dumitrescu be reconsidered and withdrawn.

CONCLUSION


Claims 1, 3-10, 11-16, and 27 are pending in this application. Applicants submit that these claims are now in condition for allowance. If the examiner believes a telephonic interview would expedite the favorable prosecution of the present application, the examiner is invited to telephone the undersigned attorney at (617) 248-7044 to discuss any outstanding issues.

Respectfully submitted,

Date: December 29, 2004
Reg. No. 44,244

Tel. No.: (617) 248-7044
Fax No.: (617) 248-7100

3137656_2



Ronda P. Moore
Attorney for the Applicants
Testa, Hurwitz, & Thibault, LLP
High Street Tower
125 High Street
Boston, Massachusetts 02110